

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

JOSE RAMON REYES, *et al.*,

Plaintiffs,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Civil No. 18-1046 (ADC)

OPINION AND ORDER

Currently before the Court is U.S. Magistrate Judge Marcos E. López's Report and Recommendation ("the R&R") recommending that the Court affirm the Commissioner of Social Security's decision in the instant case. **ECF No. 18.** No objections to the R&R have been filed.

I. Procedural History

On January 30, 2018, plaintiff José Ramón Reyes ("Reyes" or "plaintiff") filed a complaint against the Commissioner of Social Security ("the Commissioner" or "defendant") requesting judicial review of a final decision by the Commissioner which denied plaintiff's application for Social Security disability insurance benefits. **ECF No. 1.** In his memorandum of law in support of his complaint, plaintiff asserts, in essence, that the Commissioner's decision "is not based on substantial evidence as required by 42 U.S.C. § 405(g) and that the Commissioner erred as a matter of law in determining that he is not entitled to [Social Security disability insurance]

benefits." ECF No. 11 at 1. Plaintiff requests that the Commissioner's decision be "rescinded and the plaintiff be awarded full benefits." *Id.* at 29. In the alternative, plaintiff requests that the case be remanded to the Commissioner "for a de novo hearing with medical experts and a vocational expert." *Id.* at 30.

On June 5, 2018, the Court referred the case to U.S. Magistrate Judge Marcos E. López for the issuance of a Report and Recommendation ("R&R") or for disposition of the case. ECF Nos. 9, 10. On February 14, 2019, the Magistrate Judge entered the R&R, recommending that the Commissioner's decision be affirmed, reversed and that case be remanded for further proceedings. ECF No. 18. As mentioned above, no objections have been filed to the R&R.

II. Standard of Review of an Unopposed Report and Recommendation

A district court may refer pending civil actions or proceedings to a magistrate judge for a report and recommendation. 28 U.S.C. §636(b)(1)(B); Fed. R. Civ. P. 72(b); D.P.R. Civ. R. 72(a). The court is free to accept, reject, or modify, in whole or in part, the findings or recommendations by the magistrate judge. 28 U.S.C. §636(b)(1). A party is entitled to a de novo review of "those portions of the report . . . to which specific objection is made." *Sylva v. Culebra Dive Shop*, 389 F. Supp. 2d 189, 191-92 (D.P.R. 2005) (citing *United States v. Raddatz*, 447 U.S. 667 (1980)). Absent a proper objection, though, the Court need only satisfy itself that there is no plain error in the Magistrate Judge's findings in order to adopt the same. *López-Mulero v. Vélez Colón*, 490 F. Supp. 2d 214, 217-218 (D.P.R. 2007); *see also* Fed. R. Civ. P. 72, Adv. Comm. Notes, subdivision (b)

(1983). Thus, “a party’s failure to assert a specific objection to a report and recommendation irretrievably waives any right to review by the district court and the court of appeals.” *Santiago v. Canon U.S.A., Inc.*, 138 F.3d 1, 4 (1st Cir. 1998).

III. Conclusion

After careful consideration of the law, the record, the parties’ pleadings and evidence, and the unopposed R&R, the Court wholly **ADOPTS** U.S. Magistrate Judge Marcos E. López’s findings and recommendations. Accordingly, plaintiff’s petition for review is **DENIED** and the Commissioner’s decision in the instant case is **AFFIRMED**.

The Clerk of the Court shall enter judgment accordingly.

SO ORDERED.

At San Juan, Puerto Rico, this 13th day of March, 2019.

S/AIDA M. DELGADO-COLÓN
United States District Judge